

Senate Bill No. 1864

Passed the Senate August 28, 2002

Secretary of the Senate

Passed the Assembly August 26, 2002

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of
_____, 2002, at _____ o'clock __M.

Private Secretary of the Governor

└

CHAPTER _____

An act to amend Section 51257, of the Government Code, to amend Sections 10211, 10212, 10230, 10231, 10233, 10234, 10235, 10236, 10237, 10239, 10240, 10241, 10244, 10246, 10250, 10251, 10252, 10254, 10260, 10260.5, 10261, 10262, 10263, 10264, 10270, 10271, 10273, 10274, and 10276 of, to add Sections 10230.5, 10255, 10262.2, and 10262.5 to, and to repeal Section 10265, of the Public Resources Code, and to amend Sections 402.1, 421.5, 423.4, 423.8, and 426 of the Revenue and Taxation Code, relating to agricultural land conservation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1864, Costa. Agricultural land conservation.

(1) The Williamson Act, until January 1, 2003, to facilitate a lot line adjustment, authorizes parties to mutually agree to rescind the contract or contracts and simultaneously enter into a new contract or contracts covering the adjustment if the board or council makes specified findings.

This bill would extend the termination date of those provisions to January 1, 2004.

(2) The California Farmland Conservancy Program Act requires moneys in the California Farmland Conservancy Fund, upon appropriation by the Legislature in the annual Budget Act, to be used for the purposes of the program, which include the purchase of agricultural conservation easements, land improvement and planning grants, technical assistance provided by the department, technology transfer activities of the department, and specified department administrative costs.

This bill would include fee title acquisition grants among those purposes for which moneys in the fund may be used.

(3) The California Farmland Conservancy Program Act requires the Department of Conservation to implement and administer a program to provide grants for the acquisition of agricultural conservation easements. The act prescribes procedures for the implementation of the grant program, and establishes criteria for grant applications.

This bill would revise various procedures for the application and funding of grants for agricultural conservation easements



under the act, and would make various statutory conforming changes, relating to the valuation of agricultural conservation easements as specified.

The people of the State of California do enact as follows:

SECTION 1. Section 51257 of the Government Code is amended to read:

51257. (a) To facilitate a lot line adjustment, pursuant to subdivision (d) of Section 66412, and notwithstanding any other provision of this chapter, the parties may mutually agree to rescind the contract or contracts and simultaneously enter into a new contract or contracts pursuant to this chapter, provided that the board or council finds all of the following:

(1) The new contract or contracts would enforceably restrict the adjusted boundaries of the parcel for an initial term for at least as long as the unexpired term of the rescinded contract or contracts, but for not less than 10 years.

(2) There is no net decrease in the amount of the acreage restricted. In cases where two parcels involved in a lot line adjustment are both subject to contracts rescinded pursuant to this section, this finding will be satisfied if the aggregate acreage of the land restricted by the new contracts is at least as great as the aggregate acreage restricted by the rescinded contracts.

(3) At least 90 percent of the land under the former contract or contracts remains under the new contract or contracts.

(4) After the lot line adjustment, the parcels of land subject to contract will be large enough to sustain their agricultural use, as defined in Section 51222.

(5) The lot line adjustment would not compromise the long-term agricultural productivity of the parcel or other agricultural lands subject to a contract or contracts.

(6) The lot line adjustment is not likely to result in the removal of adjacent land from agricultural use.

(7) The lot line adjustment does not result in a greater number of developable parcels than existed prior to the adjustment, or an adjusted lot that is inconsistent with the general plan.

(b) Nothing in this section shall limit the authority of the board or council to enact additional conditions or restrictions on lot line adjustments.



(c) Only one new contract may be entered into pursuant to this section with respect to a given parcel, prior to January 1, 2004.

(d) In the year 2002, the department's Williamson Act Status Report, prepared pursuant to Section 51207, shall include a review of the performance of this section.

(e) This section shall remain in effect only until January 1, 2004, and as of that date is repealed, unless a later enacted statute, that is enacted on or before January 1, 2004, deletes or extends that date.

SEC. 2. Section 10211 of the Public Resources Code is amended to read:

10211. "Agricultural conservation easement" or "easement" means an interest in land, less than fee simple, which represents the right to prevent the development or improvement of the land, as specified in Section 815.1 of the Civil Code, for any purpose other than agricultural production. The easement shall be granted for the California Farmland Conservancy Program by the owner of a fee simple interest in land to a local government, nonprofit organization, resource conservation district, or to a regional park or open-space district or regional park or open-space authority that has the conservation of farmland among its stated purposes, as prescribed by statute, or as expressed in the entity's locally adopted policies. It shall be granted in perpetuity as the equivalent of covenants running with the land.

SEC. 3. Section 10212 of the Public Resources Code is amended to read:

10212. "Applicant" means a city, county, nonprofit organization, resource conservation district, or a regional park or open-space district or regional park or open-space authority that has the conservation of farmland among its stated purposes, as prescribed by statute, or as expressed in the entity's locally adopted policies, that applies for a grant authorized pursuant to this division.

SEC. 4. Section 10230 of the Public Resources Code is amended to read:

10230. (a) (1) The California Farmland Conservancy Program Fund is hereby created.

Except as provided in paragraph (2), the moneys in the fund shall, upon appropriation by the Legislature in the annual Budget Act, be used for the purposes of the program, which include the



purchase of agricultural conservation easements, fee title acquisition grants, land improvement and planning grants, technical assistance provided by the department, technology transfer activities of the department, and administrative costs incurred by the department in administering the program.

(2) Notwithstanding paragraph (1), moneys may be deposited into the fund from federal grants, and gifts and donations that are designated and required by the donor to be used exclusively for the purposes of the program, and notwithstanding Section 13340 of the Government Code, those moneys are hereby continuously appropriated to the department for expenditure for the purposes of this program.

(b) Not to exceed 10 percent of all grants made by the department pursuant to this division may be made for land improvement purposes and policy planning purposes. Not less than 90 percent of funds available for grants pursuant to this division shall be expended for the acquisition of interests in land.

SEC. 5. Section 10230.5 is added to the Public Resources Code, to read:

10230.5. Policy planning grants may be awarded pursuant to criteria established by the department for purposes including, but not limited to, the development and evaluation of local or regional land conservation strategies and potential agricultural conservation easement or fee title acquisition projects.

SEC. 6. Section 10231 of the Public Resources Code is amended to read:

10231. Money available from the fund shall be utilized in accordance with the expenditures and distribution authorized, required, or otherwise provided in the program for grants for the acquisition of agricultural conservation easements or fee title. This includes direct costs incidental to the acquisition, as determined by the department, including costs associated with a loss in property tax revenues resulting from the acquisition of those agricultural conservation easements. Direct costs paid to the applicant shall have been incurred after the application was submitted to the department and no more than 180 days before the execution of the grant agreement or during the grant term, and shall not exceed 10 percent of the value of the easements for which the costs were incurred.



SEC. 7. Section 10233 of the Public Resources Code is amended to read:

10233. Each application for a grant pursuant to this division shall contain a matching funding component, as specified in this section, and may be provided in the form of cash or in-kind services, or any combination thereof, as determined by the department.

(a) Each application for a grant for the purchase of an agricultural conservation easement shall contain a matching component of not less than 5 percent of the value of the grant or a landowner donation of not less than 10 percent of the appraised fair market value of the agricultural conservation easement. In situations where both matching funds and donations of easement value are being combined, the combined match shall be not less than 10 percent of the appraised fair market value of the agricultural conservation easement. Up to 50 percent of contributions to an agricultural conservation easement monitoring endowment for the subject property may be provided as a component of a qualified grant match under this division, as determined by the department.

(b) Each application for a planning or land improvement grant pursuant to Section 10230 shall contain a matching funding component of not less than 10 percent of the proposal's total cost.

(c) Each application for a fee title acquisition grant shall contain a matching component of not less than 5 percent of the value of the grant.

SEC. 8. Section 10234 of the Public Resources Code is amended to read:

10234. Every applicant for a grant for the acquisition of fee title or an agricultural conservation easement shall provide by a resolution from the governing body of the local government in which the proposed project is located, and shall certify both of the following:

(a) The proposal meets the eligibility criteria set forth in Section 10251.

(b) The proposal has been approved by the appropriate local governmental governing body.

SEC. 9. Section 10235 of the Public Resources Code is amended to read:



10235. (a) The director shall not disburse any grant funds until the applicant agrees that any agricultural conservation easement acquired shall be used by the applicant only for the purpose for which the funds were requested and that no other use, sale, or other disposition of the easement shall be permitted unless approved by the director, or where the easement may be transferred to a public agency or nonprofit organization, for management purposes.

(b) If a local government or nonprofit organization holding the easement is dissolved, it shall be transferred to an appropriate public agency or nonprofit organization, as provided in this division.

(c) The easement, or any of its terms, may only be amended with the consent of all of the necessary parties to the easement, including the landowner, the easement holder, and the director. The director shall determine that the amendment is not inconsistent with this section before it may be amended.

SEC. 10. Section 10236 of the Public Resources Code is amended to read:

10236. If the funds are used for the acquisition of an agricultural conservation easement pursuant to a local transfer of development rights program, upon the sale of the easement and its attendant development rights, the entity that holds the easement shall reimburse the fund by an amount equal to the fair market value of the easement, as determined by an appraisal approved by the department.

SEC. 11. Section 10237 of the Public Resources Code is amended to read:

10237. The director shall not disburse any grant funds for easement or fee title acquisitions unless the applicant, and in the case of an easement acquisition grant, the seller, agrees to restrict the use of the land in perpetuity, subject to review after 25 years.

SEC. 12. Section 10239 of the Public Resources Code is amended to read:

10239. The director shall disburse funds to an applicant for a grant for the acquisition of fee title to agricultural land only if the applicant agrees to all of the following conditions:

(a) Upon acquisition of the property, treat the property as encumbered by an agricultural conservation easement subject to this division and approved by the department.



(b) Sell the fee title subject to an agricultural conservation easement approved by the department to a private landowner within three years of the acquisition of the fee title.

(c) Reimburse the fund within 30 days after the sale of the restricted fee title by an amount equal to the department's proportional share of the net proceeds of the sale.

(1) The "net proceeds of the sale" is defined as the fair market value of the land less the value of the easement and associated transaction costs.

(2) The department's proportional share of the net proceeds of the sale shall be calculated using a factor reflecting the department's proportional share of the purchase price paid by the applicant in the original acquisition of fee title, taking into account contributions from all sources toward that original purchase price.

SEC. 13. Section 10240 of the Public Resources Code is amended to read:

10240. (a) The department shall adopt rules and regulations for the implementation of this division.

(b) Rules or regulations adopted by the department pursuant to this section shall be adopted in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

SEC. 14. Section 10241 of the Public Resources Code is amended to read:

10241. The department shall adopt the criteria necessary for its approval of grant applications.

SEC. 15. Section 10244 of the Public Resources Code is amended to read:

10244. To be eligible to receive funds pursuant to this division for the acquisition of either agricultural conservation easements or fee title interests, qualified applicants shall submit to the department documentation of the applicable local government's adopted general plan that demonstrates a long-term commitment to agriculture and agricultural land conservation, including a summary of goals, objectives, and policies and implementation measures that support that commitment.

SEC. 16. Section 10246 of the Public Resources Code is amended to read:



10246. Grants may be made for land improvements. Use of these grants shall be limited to the improvement of lands protected by agricultural conservation easements under the program, or of lands protected by other qualified conservation easement programs, if the improvement will directly benefit the lands protected by agricultural conservation easements under the program. An application for a land improvement grant shall be evaluated with respect to the extent to which it satisfies one or more of the following criteria:

(a) The improvement will enhance the agricultural value of the land protected by the easement, and promote its long-term sustainable agricultural use such as water supply development and revegetation of eroding streambanks.

(b) The improvement will increase the compatibility of agricultural operations with sensitive natural areas.

(c) The improvement will demonstrate new and innovative best management practices which have the potential for wide application.

(d) The proposed improvement includes the financial and technical involvement of other agencies, such as resource conservation districts, the Wildlife Conservation Board, the United States Farm Services Agency, and the United States Natural Resources Conservation Service.

(e) The improvement is part of a coordinated watershed management plan or the equivalent.

(f) The application satisfies other relevant criteria established by the department.

SEC. 17. Section 10250 of the Public Resources Code is amended to read:

10250. In reviewing applications pursuant to this division, the department shall determine whether the proposed project meets the applicable requirements set forth in this division and conforms with any rules or regulations adopted by the department pursuant to this division.

SEC. 18. Section 10251 of the Public Resources Code is amended to read:

10251. Applicants for an agricultural conservation easement or fee acquisition grant shall meet all of the following eligibility criteria:

(a) The parcel proposed for conservation is expected to continue to be used for, and is large enough to sustain, commercial agricultural production. The land is also in an area that possesses the necessary market, infrastructure, and agricultural support services, and the surrounding parcel sizes and land uses will support long-term commercial agricultural production.

(b) The applicable city or county has a general plan that demonstrates a long-term commitment to agricultural land conservation. This commitment shall be reflected in the goals, objectives, policies, and implementation measures of the plan, as they relate to the area of the county or city where the easement acquisition is proposed.

(c) Without conservation, the land proposed for protection is likely to be converted to nonagricultural use in the foreseeable future.

SEC. 19. Section 10252 of the Public Resources Code is amended to read:

10252. The director shall evaluate a proposal for a fee title or agricultural conservation easement acquisition grant based upon the overall value of the project, taking into consideration the goals and objectives for this program, and the extent to which the proposed project satisfies the following selection criteria:

(a) The quality of the agricultural land, based on land capability, farmland mapping and monitoring program definitions, productivity indices, and other soil, climate, and vegetative factors.

(b) The proposal meets multiple natural resource conservation objectives, including, but not limited to, wetland protection, wildlife habitat conservation, and scenic open-space preservation.

(c) The city or county demonstrates a long-term commitment to agricultural land conservation as demonstrated by the following:

(1) The general plan and related land use policies of the city or county.

(2) Policies of the local agency formation commission.

(3) California Environmental Quality Act policies and procedures.

(4) The existence of active local agricultural land conservancies or trusts.

(5) The use of an effective right-to-farm ordinance.



(6) Applied strategies for the economic support and enhancement of agricultural enterprise, including water policies, public education, marketing support, and consumer and recreational incentives.

(7) Other relevant policies and programs.

(d) If the land is in a county that participates in the Williamson Act (Chapter 7 (commencing with Section 51200) of Part 1 of Division 1 of Title 5 of the Government Code), the land proposed for protection is within a county or city designated agricultural preserve.

(e) The land proposed for conservation is within two miles outside of the exterior boundary of the sphere of influence of a city as established by the local agency formation commission.

(f) The applicant demonstrates fiscal and technical capability to effectively carry out the proposal. Technical capability may be demonstrated by agricultural land conservation expertise on the governing board or staff of the applicant, or through partnership with an organization that has that expertise.

(g) The proposal demonstrates a coordinated approach among affected landowners, local governments, and nonprofit organizations. If other entities are affected, there is written support from those entities for the proposal and a willingness to cooperate. The support of neighboring landowners who are not involved in the proposal shall be considered.

(h) The conservation of the land supports long-term private stewardship and continued agricultural production in the region.

(i) The proposal demonstrates an innovative approach to agricultural land conservation with a potential for wide application in the state.

(j) The amount of matching funds and in-kind services contributed by local governments and other sources toward the acquisition of the fee title or agricultural conservation easement, or both.

(k) The price of the proposed acquisition is cost-effective in comparison to the fair market value.

(l) Other relevant considerations established by the director.

SEC. 20. Section 10254 of the Public Resources Code is amended to read:

10254. Before an application for an agricultural conservation easement or fee title acquisition grant is approved by the



department pursuant to the program, the entity that is applying for the grant shall provide public notice to parties reasonably likely to be interested in the property, including the county and city in which the property is located, conservation, agricultural, and development organizations, adjacent property owners, and the general public. Written notice shall be provided as follows:

(a) Notice shall be provided to adjacent landowners as indicated in the county tax rolls not less than 30 days prior to the expected date of the local government's consideration of the resolution required pursuant to subdivision (b) of Section 10234.

(b) The notice to the county and city shall be provided not less than 30 days before the entity applies for the grant to acquire an agricultural conservation easement.

SEC. 21. Section 10260 of the Public Resources Code is amended to read:

10260. (a) In determining the amount of funding to be provided for an agricultural conservation easement or fee acquisition grant, the department shall take reasonable steps to ensure that the total purchase price of the agricultural conservation easement or, in the case of a fee title acquisition, the total purchase price of the subject property does not exceed fair market value, taking into consideration the funding from all sources. The determination of fair market value shall be accomplished, as follows:

(1) An applicant shall select and retain an independent real estate appraiser to determine the value of the subject property, including any proposed agricultural conservation easement.

(2) The department shall review and consider an applicant's appraisal and may, at its sole discretion, require or obtain an additional appraisal.

(3) The easement value shall be calculated by determining the difference between the fair market value and the restricted value of the property.

(b) The department may conditionally approve grant applications prior to completion of final appraisals, provided an acceptable appraisal and all other requirements of this division are met before any disbursement of grant funds.

(c) The department shall have final authority to determine the acceptability of an appraisal pursuant to this division.



SEC. 22. Section 10255 is added to the Public Resources Code, to read:

10255. Prior to the disbursement of grant funds for easements or fee title acquisitions under this division, all of the following conditions shall be met:

(a) The proposed agricultural conservation project shall be deemed by the department to be compatible with the applicable city or county general plan.

(b) The governing body of the applicable city or county approves the easement proposal by resolution.

(c) For land within a city's sphere of influence, the proposed agricultural conservation project shall be deemed by the department to be compatible with both the applicable county and city general plans. In addition, both the applicable county and city shall have adopted resolutions approving the easement proposal.

SEC. 23. Section 10260.5 of the Public Resources Code is amended to read:

10260.5. For purposes of this division, an agricultural conservation easement shall be recorded in the county recorder's office in each county in which the real property affected is located. Once recorded, the easement shall attach to the real property in perpetuity.

SEC. 24. Section 10261 of the Public Resources Code is amended to read:

10261. (a) Whenever any entity exercises the power of eminent domain to acquire land subject to an agricultural conservation easement under this program, the condemnor shall pay just compensation to the owner of the land in fee and to the owner of the easement as follows:

(1) The owner of the land in fee shall be paid the full value that would have been payable to the owner but for the existence of the easement less the fair market value of the easement, as determined by an independent appraisal, at the time of condemnation.

(2) The program, and any other contributing parties if so provided in the easement, shall be paid the value of the easement at the time of condemnation.

(b) The director may provide, by regulation, or, pursuant to the terms of the easement, that in the case of acquisition of the easement by a federal agency, that the agency shall agree to the amount of compensation paid for the easement that is determined



pursuant to subdivision (a), or pay the current fair market value of the land subject to an agricultural easement. The director shall distribute the proceeds of a land sale that is made in accordance with the conditions set forth in subdivision (a).

SEC. 25. Section 10262 of the Public Resources Code is amended to read:

10262. An agricultural conservation easement shall not prevent any of the following:

(a) The granting of leases, assignments, or other conveyances, or the issuing of permits, licenses, or other authorization, for the exploration, development, storage, or removal of oil and gas by the owner of the subject land, or for the development of related facilities or for the conduct of incidental activities, as long as the agricultural productivity of the subject land and any multiple uses that made the acquisition a priority for selection under the program, are not thereby significantly impaired.

(b) The granting of rights-of-way by the owner of the subject land in and through the land for the installation, transportation, or use of water, sewage, electric, telephone, gas, oil, or oil products lines, stock water development and storage, energy generation, and fencing, provided that the agricultural productivity of the land and any multiple uses that made the acquisition a priority for selection under the program, are not significantly impaired by those activities.

(c) The construction and use of structures on the subject land that are necessary for agricultural production and marketing, including, but not limited to, barns, shops, packing sheds, cooling facilities, greenhouses, roadside marketing stands, stock water development and storage, energy generation, and fencing, provided that the agricultural productivity of the land and any multiple uses that made the acquisition a priority for selection under the program, are not significantly impaired by those activities.

(d) Customary part time or off season rural enterprises or activities, including, but not limited to, hunting and fishing, wildlife habitat improvement, predator control, timber harvesting, and firewood production, provided that the agricultural productivity of the land and any multiple uses that made the acquisition a priority for selection under the program, are not significantly impaired by those activities.



SEC. 26. Section 10262.2 is added to the Public Resources Code, to read:

10262.2. An agricultural conservation easement may provide for either or both of the following:

(a) Construction and use of additional residences for the immediate family members, as defined in subdivision (c) of Section 51230.1 of the Government Code, of the landowner.

(b) Construction and use of structures on the subject land for the purpose of providing necessary housing for seasonal or full-time employees of the agricultural operation.

SEC. 27. Section 10262.5 is added to the Public Resources Code, to read:

10262.5. The granting of an agricultural conservation easement under this division shall not be interpreted to convey any rights of public access to the subject property.

SEC. 28. Section 10263 of the Public Resources Code is amended to read:

10263. (a) The department shall act on an application for a grant within 180 days after the department determines that it is complete.

(b) If the department disapproves a grant application, the applicant shall be given written notice of the disapproval within 10 days of the department's decision. The written notice shall state the reason for the disapproval of the application.

SEC. 29. Section 10264 of the Public Resources Code is amended to read:

10264. The director shall disapprove the application for a grant for the acquisition of an agricultural conservation easement or fee title in any of the following circumstances:

(a) The application does not satisfy the eligibility criteria set forth in Section 10251.

(b) The department has determined that clear title to the agricultural conservation easement cannot be conveyed.

(c) There is insufficient money in the fund to carry out the acquisition.

(d) Other acquisitions have a higher priority.

SEC. 30. Section 10265 of the Public Resources Code is repealed.

SEC. 31. Section 10270 of the Public Resources Code is amended to read:



10270. Twenty-five or more years from the date of sale of the agricultural conservation easement, the landowner may make a request to the department that the easement be reviewed for possible termination. Upon receipt of a request, the department shall immediately notify the affected local government to initiate a local government inquiry pursuant to Section 10271.

SEC. 32. Section 10271 of the Public Resources Code is amended to read:

10271. (a) To terminate the agricultural conservation easement, the local government in which the subject land is located shall undertake an inquiry to determine the feasibility of profitable farming on the subject land.

(1) The local government inquiry shall include onsite inspection of the subject land, the holding of a public hearing in the county in which the subject land is located, held after adequate public notice of the hearing has been given and the preparation of a report documenting the findings of the local government.

(2) The inquiry shall be concluded and a report submitted to the department within 150 days of the department notifying the local government of the request pursuant to Section 10270.

(b) The department shall make a decision as to the request within 195 days after notifying the local government of the request or within 45 days after receiving the local government report summarizing the results of its inquiry, whichever occurs later.

SEC. 33. Section 10273 of the Public Resources Code is amended to read:

10273. (a) For the department to approve the termination of the agricultural conservation easement, all of the following findings shall be made:

(1) The termination is consistent with the purposes of this division.

(2) The termination is in the public interest.

(3) The termination is not likely to result in the removal of adjacent lands from commercial agricultural production.

(4) The termination is for an alternate use which is consistent with the applicable provisions of the city or county general plan.

(5) The termination will not result in discontinuous patterns of urban development.

(6) The conservation purposes, as defined in the agricultural conservation easement, can no longer be achieved.



(7) There is no land that is available and suitable for the use to which it is proposed that the restricted land be put to, or that development of the restricted land would provide more contiguous patterns of urban development than development of proximate unrestricted land.

(b) As used in subdivision (a), the following terms have the following meaning:

(1) “Proximate unrestricted land” means land that is not restricted by an easement and which is sufficiently close to land that is restricted so that it can serve as a practical alternative for the use that is proposed for the restricted land.

(2) “Suitable for the use” means that the salient features of the proposed use can be served by land not restricted by an easement. The nonrestricted land may be a single parcel or may be a combination of discontiguous parcels.

(c) The department shall request from the easement holder, and shall consider the easement holder’s assessment of, information regarding the continuing value and viability of the subject property for the conservation purposes for which the easement was originally created. The department may consider the easement holder’s investment in, or experience with, the subject property in evaluating the proposed termination.

SEC. 34. Section 10274 of the Public Resources Code is amended to read:

10274. The uneconomic character of existing agricultural use shall not by itself be sufficient reason for termination of the agricultural conservation easement, unless the director determines there is no other reasonable or comparable agricultural use for the land, and the conservation purposes, as defined in the agricultural conservation easement, can no longer be achieved. If the director determines that the existing use is uneconomic, that there is no other reasonable or comparable agricultural use of the land, and the conservation purposes as defined in the agricultural conservation easement can no longer be achieved, termination of the easement may be approved by the secretary without making a finding pursuant to paragraph (6) of subdivision (a) of Section 10273.

SEC. 35. Section 10276 of the Public Resources Code is amended to read:



10276. (a) If the termination of the agricultural conservation easement is approved pursuant to this division or pursuant to a judicial proceeding in a court of competent jurisdiction, the landowner shall repurchase the easement by paying to the fund and, if so provided in the easement, to any other contributing parties, the difference, at that time, between the fair market value and the restricted value. That difference shall be determined by an appraisal approved by the state and conducted at the landowner's expense.

(b) If the landowner fails to complete the termination process by repurchasing the agricultural conservation easement within one year from the date of the department's approval of the termination of the easement, the termination approval shall lapse and the landowner shall wait at least one year before reapplying to terminate the easement.

(c) Money received from the repurchase of agricultural conservation easements shall be deposited in the fund and shall be available, upon appropriation, for the purposes set forth in this division, except as provided in subdivision (d).

(d) Where an easement was originally purchased with moneys from sources other than the program, the easement may require that moneys received from the repurchase of the easement be divided proportionally between the fund and any other funding source, including nonprofit organizations, in amounts that are proportional to the original contribution made by each party that contributed to that purchase. If provided in an easement, a nonprofit organization that contributed indirect costs and services to the purchase of an easement may recoup the actual amount of its contribution, plus an amount not exceeding 3 percent of the total amount of the contribution for administrative costs of ongoing easement monitoring and enforcement. Those contributions shall be deducted from the total proceeds prior to the proportional division defined herein.

SEC. 36. Section 402.1 of the Revenue and Taxation Code is amended to read:

402.1. (a) In the assessment of land, the assessor shall consider the effect upon value of any enforceable restrictions to which the use of the land may be subjected. These restrictions shall include, but are not limited to, all of the following:

(1) Zoning.



(2) Recorded contracts with governmental agencies other than those provided in Sections 422 and 422.5.

(3) Permit authority of, and permits issued by, governmental agencies exercising land use powers concurrently with local governments, including the California Coastal Commission and regional coastal commissions, the San Francisco Bay Conservation and Development Commission, and the Tahoe Regional Planning Agency.

(4) Development controls of a local government in accordance with any local coastal program certified pursuant to Division 20 (commencing with Section 30000) of the Public Resources Code.

(5) Development controls of a local government in accordance with a local protection program, or any component thereof, certified pursuant to Division 19 (commencing with Section 29000) of the Public Resources Code.

(6) Environmental constraints applied to the use of land pursuant to provisions of statutes.

(7) Hazardous waste land use restriction pursuant to Section 25240 of the Health and Safety Code.

(8) A recorded conservation, trail, or scenic easement, as described in Section 815.1 of the Civil Code, that is granted in favor of a public agency, or in favor of a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has as its primary purpose the preservation, protection, or enhancement of land in its natural, scenic, historical, agricultural, forested, or open-space condition or use.

(b) There is a rebuttable presumption that restrictions will not be removed or substantially modified in the predictable future and that they will substantially equate the value of the land to the value attributable to the legally permissible use or uses.

(c) Grounds for rebutting the presumption may include, but are not necessarily limited to, the past history of like use restrictions in the jurisdiction in question and the similarity of sales prices for restricted and unrestricted land. The possible expiration of a restriction at a time certain shall not be conclusive evidence of the future removal or modification of the restriction unless there is no opportunity or likelihood of the continuation or renewal of the restriction, or unless a necessary party to the restriction has indicated an intent to permit its expiration at that time.



(d) In assessing land with respect to which the presumption is unrebutted, the assessor shall not consider sales of otherwise comparable land not similarly restricted as to use as indicative of value of land under restriction, unless the restrictions have a demonstrably minimal effect upon value.

(e) In assessing land under an enforceable use restriction wherein the presumption of no predictable removal or substantial modification of the restriction has been rebutted, but where the restriction nevertheless retains some future life and has some effect on present value, the assessor may consider, in addition to all other legally permissible information, representative sales of comparable lands that are not under restriction but upon which natural limitations have substantially the same effect as restrictions.

(f) For the purposes of this section the following definitions apply:

(1) “Comparable lands” are lands that are similar to the land being valued in respect to legally permissible uses and physical attributes.

(2) “Representative sales information” is information from sales of a sufficient number of comparable lands to give an accurate indication of the full cash value of the land being valued.

(g) It is hereby declared that the purpose and intent of the Legislature in enacting this section is to provide for a method of determining whether a sufficient amount of representative sales information is available for land under use restriction in order to ensure the accurate assessment of that land. It is also hereby declared that the further purpose and intent of the Legislature in enacting this section and Section 1630 is to avoid an assessment policy which, in the absence of special circumstances, considers uses for land that legally are not available to the owner and not contemplated by government, and that these sections are necessary to implement the public policy of encouraging and maintaining effective land use planning. Nothing in this statute shall be construed as requiring the assessment of any land at a value less than as required by Section 401 or as prohibiting the use of representative comparable sales information on land under similar restrictions when this information is available.

SEC. 37. Section 421.5 of the Revenue and Taxation Code is amended to read:



421.5. For purposes of this article, the following terms have the following meaning:

(a) “Agricultural conservation easement” shall have the same meaning as defined in Section 10211 of the Public Resources Code.

(b) “Open-space land” includes land subject to an agricultural conservation easement.

SEC. 38. Section 423.4 of the Revenue and Taxation Code is amended to read:

423.4. Land subject to a farmland security zone contract specified in Section 51296.1 of the Government Code shall be valued for assessment purposes at 65 percent of the value under Section 423 or 65 percent of the value under Section 110.1, whichever is lower.

SEC. 39. Section 423.8 of the Revenue and Taxation Code is amended to read:

423.8. (a) Notwithstanding the acreage requirement specified in subdivision (f) of Section 421, both of the following apply with respect to enrollment in a wildlife habitat contract:

(1) Any open-space land that has been restricted as wildlife or endangered species habitat by a political subdivision of the state or entity of state government shall, upon the request of the owner of that land, be enrolled in a wildlife habitat contract with the political subdivision of the state or entity of state government that has so restricted the subject open-space land.

(2) Any open-space land that has been restricted as wildlife or endangered species habitat by an agency of the federal government shall, upon the request of the landowner, be enrolled in a wildlife habitat contract with the city or county having jurisdiction over the restricted open-space land.

For any open-space land eligible for valuation under Section 422.5, 423, 423.3, 423.5, 426, or 435, that has also been enrolled in a wildlife habitat contract pursuant to this section, the controlling value of the land shall, except as otherwise provided in the following sentence, be the lower of the values determined for that land pursuant to those sections or Section 402.1. Other lands enrolled in a wildlife habitat contract pursuant to this section shall be assessed at the value determined as provided in Section 402.1.



(b) In no event shall this section or Section 421 be construed to authorize a political subdivision or any entity of the state or federal government to restrict the otherwise lawful use of property by designating all or part of that property as wildlife habitat or endangered species habitat without the consent of the owner of that property.

(c) It is the intent of the Legislature in adding this section to establish a nonexclusive alternative method of recognizing, for purposes of property taxation, the existence of certain governmental restrictions on the use of property. Neither this section nor Section 402.1 shall be construed or applied to require the existence of a wildlife habitat contract, as described in this section, as a necessary condition for recognizing the effect upon the taxable value of property of any enforceable restriction that is recognized under Section 422, 422.5, or 402.1 and is legally established by statute, regulation, or any action or classification by a governmental entity, for the benefit of wildlife, endangered species, or their habitats.

SEC. 40. Section 426 of the Revenue and Taxation Code is amended to read:

426. Notwithstanding any provision of Section 423 to the contrary, if either the county, city, or nonprofit organization or the owner of land subject to contract, agreement, scenic restriction, or open-space easement has served notice of nonrenewal as provided in Section 51091, 51245, or 51296.9 of the Government Code, and the county assessors shall, unless the parties shall have subsequently rescinded the contract pursuant to Section 51254 or 51255 of the Government Code, value the land as provided in this section.

(a) If the owner of land serves notice of nonrenewal or the county, city, or nonprofit organization serves notice of nonrenewal and the owner fails to protest as provided in Section 51091, 51245, or 51296.9 of the Government Code, subdivision (b) shall apply immediately. If the county, city, or nonprofit organization serves notice of nonrenewal and the owner does protest as provided in Section 51091, 51245, or 51296 of the Government Code, subdivision (b) shall apply when less than six years remain until the termination of the period for which the land is enforceably restricted.



(b) Where any of the conditions in subdivision (a) apply, the board or assessor in each year until the termination of the period for which the land is enforceably restricted shall do all of the following:

(1) Determine the value of the land pursuant to Section 110.1 of the Revenue and Taxation Code. If the land is not subject to Section 110.1 of the Revenue and Taxation Code when the restriction expires, the value shall be determined pursuant to Section 110 of the Revenue and Taxation Code as if it were free of contractual restriction. If the land will be subject to a use for which the Revenue and Taxation Code provides a special restricted assessment, the value shall be determined as if it were subject to the new restriction.

(2) Determine the value of the land by capitalization of income as provided in Section 423 and without regard to the existence of any of the conditions in subdivision (a).

(3) Subtract the value determined in paragraph (2) of subdivision (b). by capitalization of income from the full value determined in paragraph (1) of subdivision (b).

(4) Using the rate announced by the board pursuant to paragraph (1) of subdivision (b) of Section 423, discount the amount obtained in paragraph (3) of subdivision (b) for the number of years remaining until the termination of the contract, agreement, scenic restriction, or open-space easement.

(5) Determine the value of the land by adding the value determined by capitalization of income as provided in paragraph (2) of subdivision (b) and the value obtained in paragraph (4) of subdivision (b).

(6) Apply the ratio prescribed in Section 401 to the value of the land determined in paragraph (5) of subdivision (b) to obtain its assessed value.



Approved _____, 2002

Governor

